



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/814,958

03/30/2004

Dale Black

18360/256731

8298

826

7590

04/29/2009

ALSTON & BIRD LLP

BANK OF AMERICA PLAZA

101 SOUTH TRYON STREET, SUITE 4000

CHARLOTTE, NC 28280-4000

EXAMINER

JABR, FADEY S

ART UNIT

PAPER NUMBER

3628

MAIL DATE

DELIVERY MODE

04/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/814,958	Applicant(s) BLACK ET AL.	
	Examiner FADEY S. JABR	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 11-76 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/30/04, 7/26/06, 3/7/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

Claims **1-10** have been elected. Claims **11-76** have been withdrawn from consideration.

Claims **1-10** remain pending and are again presented for examination.

Election/Restrictions

1. Claims **11-76** are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 27 February 2009.

2. This application contains claims **11-76** drawn to an invention nonelected without traverse in the reply filed on 27 February 2009. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

Art Unit: 3628

application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Rule 1.105

5. Rule 1.105 allows the Examiner, in the course of examining or treating a matter in a pending application, to require the submission from Applicant and his assignees of information as may be reasonably necessary to properly examine or treat the matter. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide information that the examiner has determined is reasonably necessary to the examination of this application. This information generally relates to background information of mathematical concepts of the claimed invention.

Applicant cites 45 references in the IDS. The examiner after sampling some of the references is requesting information from the applicant in order to reasonably limit the scope of the IDS to references which are at least related to the scope of the patent application.

For instance, the following samples of IDS references do not appear to be directly applicable to the instant application which is a system determines the duties and tariffs associated with a system through a comparison of historic data.

Reference #2, Pub. N. US2002/0049622 A1 to Lettich et al. describes a method for providing with one stop shopping for shipping and logistics services.

Reference #9, Patent 5774553 to Rosen describes a foreign exchange transaction system.

Reference #24, NPL Genesis Solutions describes a supply chain network optimization.

Interrogatories

Please provide answers to each of the following interrogatories eliciting factual information regarding the concepts of the present invention.

a. Which of the cited IDS references are reasonably pertinent to the subject matter of the referenced application and if so, in what way?

b. Is the applicant aware of any other related (common inventor or ownership) patent applications or patents from which the applicant is providing references either cited by the examiner or derived from the search related to those other patents? If so, please provide the application numbers.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims **1-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sundel, Pub. No. US2002/0116273 A1 (and Sundel Pub. No. US2003/0105704 A1 Incorporated By Reference). in view of Lefebvre et al., Pub. No. US2002/0010665 A1 and Henty, U.S. Patent No. 7,319,990 B1, hereinafter referred to as Sundel, Lefebvre and Henty, respectively.

As per **Claims 1 and 9-10**, Sundel discloses a method and system comprising:

Art Unit: 3628

- a database for storing shipment data comprising at least a first identifier associated with one good in the shipment (0006, 0008-0011, 0021, 0037),
- the database storing a plurality of rating profiles (0006, 0008-0011, 0021, 0037),
- each rating profile including at least a first descriptor of an item associated with the item (0006, 0008-0011, 0021, 0037); and
- the processor further configured to calculate a tariff amount associated with the first identifier based in part on the tariff code associated with the first rating profile (0006, 0008-0011, 0021, 0037),
- the processor updating the shipment data in the database (0014 of Sundel Pub. No. US2003/0105704 A1).

Sundel fails to *explicitly* disclose each rating profile includes a *tariff code*. However, Sundel discloses a duty rate by destination country for an item (0037). Further, Sundel fails to *explicitly* disclose wherein the updated shipment data includes the tariff amount. Sundel teaches updating shipment data in a database (0014 of Sundel Pub. No. US2003/0105704 A1). Further, Lefebvre teaches a tariff code in the calculation of the tariff (0144-0145). Thus, Sundel discloses storing the duty rate for determining the total duty and tax for a shipment, while Lefebvre teaches calculating the specific duty due using tariff codes.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include using tariff codes to determine a tariff as taught by Lefebvre in the system of Sundel, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of

Art Unit: 3628

ordinary skill in the art would have recognized that the results of the combination were predictable.

Sundel fails to disclose a determining a *confidence level* associated with a first rating profile selected from the database based in part on the first identifier. However, Henty teaches the CPU determines whether the confidence value of the best match from the signal processor 22 exceeds a preset confidence value X. If the determination at step 120 is that the confidence value of the match is adequate then the CPU process flow proceeds to step 122 and the CPU retrieves the price information for the identified produce type from database 12 (referring to FIG. 1) (C. 11, line 52 – C. 12, line 19, C. 13, line 52 – C. 14, line 4). Thus, Henty teaches the use of confidence levels when receiving information from a database.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a confidence level as taught by Henty in the system of Sundel, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **Claim 2**, Sundel discloses wherein the first identifier comprises at least one selected from the group of a description of the good, a shipper of the good and an importer of the good (0006, 0008-0011, 0021, 0037).

As per **Claim 3**, Sundel discloses wherein the first descriptor comprises one from the group of a description of the item, a shipper of the item and an importer of the item (0006, 0008-

Art Unit: 3628

0011, 0021, 0037).

As per **Claim 4**, Sundel fails to disclose wherein the rating profiles comprise catalog rating profiles and historical rating profiles. However, Lefebvre teaches in order to conduct international transactions, there is a need for a comprehensive system that provides updated tariff and tax information, as well as other transaction related costs and information (0006). Further, Lefebvre teaches a user can obtain the duty, tax and total landed cost associated with an international sale and shipment of one or more products by entering the above inputs. Preferably, the real-time tariff and import data system 120 guides the user to properly enter inputs. When entering the required inputs (previously discussed), the user determines whether to use its own product codes or standard HS codes in the request (0110). Thus, Lefebvre teaches the use of historic duty, tax and cost information and the use of product codes associated with duty and tax information. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the use of historic and product code information to determine duty and taxes as taught by Lefebvre in the system of Sundel, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **Claim 5**, Sundel discloses wherein the first rating profile is selected based in part on the first descriptor (0006, 0008-0011, 0021, 0037).

As per **Claim 6**, Sundel discloses wherein the confidence level is determined by comparing the first identifier of the shipment data with the first descriptor of the first rating profile (0006, 0008-0011, 0021, 0037).

As per **Claims 7-8**, Sundel fails to disclose wherein the processor is further configured to compare the confidence level with a predetermined threshold value; and wherein the processor is further configured to receive user input to select the first rating profile if the confidence level is less than the predetermined threshold value. Sundel fails to disclose a determining a *confidence level* associated with a first rating profile selected from the database based in part on the first identifier. However, Henty teaches if the determination is that the confidence value of the match is not adequate then the process branches to step 132 where the CPU 24 displays the selected number of potential matches on the display 28 (shown in FIG. 1). At the same time, preferably an audible indication is given that a definite match has not been made and operator input is needed. For example, a double beep may be sounded to call the attention of the checkout operator or customer to the displayed possible matches. If the display 28 is a touch screen display, then the operator need simply touch the appropriate portion of the screen to select the correct match from the plural matches displayed. On the other hand, if a touch screen display is not employed each potential match will preferably be displayed along with a number and the operator need simply select the appropriate number using input 26 shown in FIG. 1. In the event that none of the displayed matches are correct the operator may then input the name or code for the correct match using input 26. If input 26 is a voice input then merely speaking the name of the correct produce will allow voice recognition software running in CPU 24 to identify and

Art Unit: 3628

output the correct produce type as the selected match. In either case, the process flow proceeds from step 132 with the selected match as indicated to step 122 as in the previous discussion.

Thus, Henty teaches the use of a confidence level and when the level is not adequate, user action is taken.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include when a confidence level is not adequate requiring user action as taught by Henty in the system of Sundel, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FADEY S. JABR whose telephone number is (571)272-1516.

The examiner can normally be reached on Mon. - Fri. 8:00am to 5:30pm.

Art Unit: 3628

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fadey S Jabr
Examiner
Art Unit 3628

FSJ

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

**Commissioner of Patents and Trademarks
Washington, D.C. 20231**

or faxed to:

(571) 273-1516 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Application/Control Number: 10/814,958

Page 11

Art Unit: 3628

Hand delivered responses should be brought to the Customer Service Window, Randolph Building, 401
Dulany Street, Alexandria, VA 22314

/F. S. J./

Examiner, Art Unit 3628

/John W Hayes/

Supervisory Patent Examiner, Art Unit 3628